

What is the Immigration and Nationality Act?



The Immigration and Nationality Act makes it illegal for employers to knowingly hire individuals not authorized to work in the United States and requires employers to check documents to confirm identity and work eligibility.

Employers may hire anyone whose documents prove identity and work authorization. Many documents and combinations of documents are acceptable as long as they appear to be reasonably genuine. A list of acceptable documents is on the back of this form. Employers must treat all applicants and employees equally, whether they are U.S. citizens or non-citizens. This means employers may not discriminate in hiring, firing, recruiting or referring for a fee, nor are employers permitted to retaliate against an employee who has filed a discrimination charge or participated in an investigation.

Types of Immigration-Related Employment discrimination include **citizenship status** - unequal treatment because of citizenship or immigration status; and **national origin discrimination** - unequal treatment because of nationality, which includes place of birth, appearance, accent and can include language.

How to avoid Immigration-related discrimination:

- Treat all people the same when announcing a job, taking applications, interviewing, offering a job, verifying eligibility to work, hiring or firing. Use the same application form for all applicants and give out the same information to all callers.
- Ask **all** new employees to show documents that establish identity and work authorization and complete the Employment Eligibility Verification Form I-9 for every new employee - U.S. citizens and non-citizens alike.
- Avoid "citizens only" hiring policies or requiring applicants with a particular immigration status. In most cases, these practices are illegal.
- Let the employee choose which documents to present as long as they prove identity and work authorization and are included in the list on the back of the I-9 form. Accept documents that appear genuine. Establishing the authenticity of a document is not the employer's responsibility.
- Complete the I-9 form and keep it on file for at least three years from the date of employment, or one year after the employee leaves the job, whichever is later. Verify you have seen documents establishing identity and work authorization for all new employees - U. S. citizens and non-citizens alike. Be prepared to make the form available to government inspectors upon request.
- Be aware that U. S. citizenship, or nationality, belongs not only to persons born in the United States but to all individuals born to a U. S. citizen and those born in Puerto Rico, Guam, the Virgin Islands, the Commonwealth of Northern Mariana Islands, American Samoa and Swains Island. Citizenship is granted to legal immigrants after they complete the naturalization process.
- Base all decisions about firing on job performance and behavior, not on appearance, accent, name, or citizenship status.

The U.S. Office of Special Counsel enforces the provisions and covers all cases of discrimination based on citizenship status involving employers of four or more employees and national origin discrimination involving employers of four to 14 employees. The Equal Employment Opportunity Commission has jurisdiction over employers with 15 or more employees. Questions? Call the Office of Special Counsel Employer Hotline at (800) 255-8155 or visit the Web: <http://www.usdoj.gov/crt/osc>.

LISTS OF ACCEPTABLE DOCUMENTS

LIST A		LIST B		LIST C
Documents that Establish Both Identity and Employment Eligibility	OR	Documents that Establish Identity	AND	Documents that Establish Employment Eligibility
1. U.S. Passport (unexpired or expired)		1. Driver's license or ID card issued by a state or outlying possession of the United States provided it contains a photograph or information such as name, date of birth, gender, height, eye color and address		1. U.S. social security card issued by the Social Security Administration (<i>other than a card stating it is not valid for employment</i>)
2. Certificate of U.S. Citizenship (<i>Form N-560 or N-561</i>)		2. ID card issued by federal, state or local government agencies or entities, provided it contains a photograph or information such as name, date of birth, gender, height, eye color and address		2. Certification of Birth Abroad issued by the Department of State (<i>Form FS-545 or Form DS-1350</i>)
3. Certificate of Naturalization (<i>Form N-550 or N-570</i>)		3. School ID card with a photograph		3. Original or certified copy of a birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal
4. Unexpired foreign passport, with <i>I-551 stamp</i> or attached <i>Form I-94</i> indicating unexpired employment authorization		4. Voter's registration card		4. Native American tribal document
5. Permanent Resident Card or Alien Registration Receipt Card with photograph (<i>Form I-151 or I-551</i>)		5. U.S. Military card or draft record		5. U.S. Citizen ID Card (<i>Form I-197</i>)
6. Unexpired Temporary Resident Card (<i>Form I-688</i>)		6. Military dependent's ID card		6. ID Card for use of Resident Citizen in the United States (<i>Form I-179</i>)
7. Unexpired Employment Authorization Card (<i>Form I-688A</i>)		7. U.S. Coast Guard Merchant Mariner Card		7. Unexpired employment authorization document issued by DHS (<i>other than those listed under List A</i>)
8. Unexpired Reentry Permit (<i>Form I-327</i>)		8. Native American tribal document		
9. Unexpired Refugee Travel Document (<i>Form I-571</i>)		9. Driver's license issued by a Canadian government authority		
10. Unexpired Employment Authorization Document issued by DHS that contains a photograph (<i>Form I-688B</i>)		For persons under age 18 who are unable to present a document listed above:		
		10. School record or report card		
		11. Clinic, doctor or hospital record		
		12. Day-care or nursery school record		

Illustrations of many of these documents appear in Part 8 of the Handbook for Employers (M-274)